

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

07/22/2002

CLERK OF THE COURT
FORM V000A

HONORABLE MICHAEL D. JONES

P. M. Espinoza
Deputy

CV 2001-017252

FILED: _____

UNISHIPPERS ASSOCIATION

GARETH C HYNDMAN

v.

PRINT EXPRESSIONS INC, et al.

ANNETTE M EVERLOVE

PHX JUSTICE CT-SOUTH
REMAND DESK CV-CCC

MINUTE ENTRY

This Court has jurisdiction of this civil appeal pursuant to the Arizona Constitution Article VI, Section 16, and A.R.S. Section 12-124(A).

This Court has considered and reviewed the record of the proceedings from the South Phoenix Justice Court, and the Memoranda submitted by counsel. This matter has been under advisement since oral argument on May 22, 2002.

The only issue presented in this appeal is whether the trial judge erred in granting Appellee, Raytheon Companies' Motion to Dismiss and/or Motion for Summary Judgment and Request for Attorney's Fees.

The law in Arizona is well settled that summary judgment is appropriate only where there are no genuine issues of material fact and one party entitled to judgment, as a matter of law.¹

¹ Fire Insurance Exchange v. Beray, 143 Ariz. 429, 694 P.2d 259, approved as modified, 143 Ariz. 361, 694 P.2d 191 (App. 1983).

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Furthermore, motions for summary judgment are not designed to resolve factual issues. Where there is the slightest dispute as to the facts, a Motion for Summary Judgment should be denied by the trial judge.²

In this case, there is no dispute between the parties that Appellants/Unishippers and Appellees/Raytheon Corporation had no contractual relationship. Rather, Appellants/Unishippers did have a contractual relationship with another Defendant who had filed for bankruptcy: Print Expressions, Incorporated. On appeal, Appellants argue that they should be given leave to amend their complaint; however, no separate motion to amend was ever filed by Appellants in the court below. The complaint in the court below only alleges a cause of action for "breach of contract". Clearly the complaint before the trial court did not allege a cause of action against Appellees Raytheon Corporation. As a matter of law, Appellees/Raytheon Corporation were entitled to judgment on the only cause of action alleged in the complaint. The trial court did not err in granting this Motion for Summary Judgment.

This Court finds no error in the award of attorney's fees to Appellees by the trial court.

Appellees have requested attorney's fees and costs on appeal, and good cause appearing in that request,

IT IS ORDERED granting Appellees' request.

IT IS FUTHER ORDERED that counsel for Appellee shall submit an Application and Affidavit for Attorney's Fees and Costs incurred in litigating this appeal to this court with a form of order no later than August 30, 2002.

IT IS THEREFORE ORDERED affirming the judgment of the South Phoenix Justice Court in this case.

² See City of Phoenix v. Space Data Corporation, 111 Ariz. 528, 534 P.2d 428 (1975).

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IT IS FURTHER ORDERED remanding this matter back to the South Phoenix Justice Court for all further and future proceedings in this case, with the exception of attorney's fees and costs on appeal.